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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/014,195

11/13/2001

Srinivas Gutta

US010575

3005

24737

7590

08/28/2007

PHILIPS INTELLECTUAL PROPERTY &amp; STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

ALVAREZ, RAQUEL

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

08/28/2007

PAPER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/014,195  
Filing Date: November 13, 2001  
Appellant(s): GUTTA ET AL.

**MAILED**

**AUG 28 2007**

**GROUP 3600**

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Oleg F. Kaplun  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 7/11/07 appealing from the Office action mailed 5/1/07.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4, 6, 7-9, 18 and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Linden et al. (6,266,649 hereinafter Linden).

With respect to claims 1-4, 7-9, 18, 20, 21, Linden teaches a method for setting up a user profile indicating preferences of a user, comprising executing the following operations in a data processing device (i.e. the items preferred by the user is saved in a user's database)(Figure 5, item 192); partitioning said third party selection history, indicating items that are selected by at least one third party, into clusters of items(i.e. the items are placed into different categories or labels , such as non-fiction, Jazz, comedy, etc. (col. 14, lines 15-34); said clusters being determined based on typical patterns of items selected by representative third-party users, said items being similar (col. 14, lines 15-34); wherein items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters (see Figure 5);setting up said user profile with items from said at least one selected cluster (database 38).

With respect to claim 6, Linden further teaches that the user profile indicates viewing preferences of said user (col. 5, lines 37-42).

Claims 5, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linden.

Claim 5 further recites employing a k-means clustering routine. Official notice is taken that it is old and well known to employ a means routine because such a modification would provide a midway position or average value. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included employing a k-means clustering routine in order to obtain the above mentioned advantage.

Claims 22-24 further recite weighting items from the user's own selection more heavily than items from third party selection history. Official notice is taken that it is old and well known to give more weight to a person's purchase history than the profile of other users. For example, couples without children are assumed to buy more wine or the like based on previous purchase history of other couples but if a particular couple is not consuming wine or the like then they will not receive a wine coupon. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included weighting items from the user's own selection more heavily than items from third party selection history in order to better target the user based on their likes/dislikes.

### **(10) Response to Argument**

Appellant argues that Linden doesn't teach that items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters. Appellant is concentrating on one particular embodiment of Linden and overlooking other embodiments of teachings of the Linden reference. Linden teaches in step **188**, the resulting list is sorted from highest-to-lowest score. The effect of the sorting operation is to place the most relevant items at the top of the list. In step 190, the list is filtered by deleting any items that (1) have already been purchased or rated by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g., books) or category (e.g., "science fiction," or "jazz") and recommend top M item from list (see Figure 5). As can be seen from above, the items from a group that are closer to a cluster or group of items are recommended over others that have negative scores or lower scores.

Appellant argues that Linden doesn't teach placing items into cluster. The Examiner disagrees with Appellant because Linden clearly teaches on col. 15, lines 63-67, the items being categorized into **specific category or groups** such as "**non-fiction**", "**romance**" and recommending the items that fall within the **designated product group or category** (Figure 5, step 190).

Appellant argues that Linden doesn't teach that items in the clusters have a relationship to the means of the clusters. The Examiner disagrees with Applicant because a "fiction" cluster will be more distant to a "non-fiction" cluster than to "comedy"

cluster.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

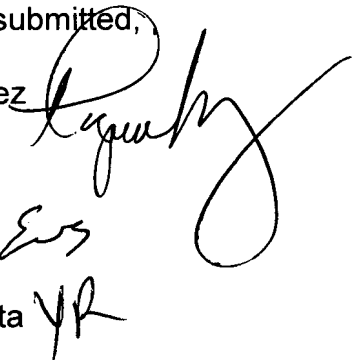
Respectfully submitted,

Raquel Alvarez

Conferees:

Eric Stamber

Yehdega Retta

The block contains three handwritten signatures. The first signature, for Raquel Alvarez, is a large, stylized cursive signature that spans across the lines for Raquel Alvarez, Conferees, and Eric Stamber. The second signature, for Eric Stamber, is a smaller, more compact cursive signature located to the right of the name. The third signature, for Yehdega Retta, is a cursive signature located to the right of the name.